

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

x

In re:

SEAN M. MURRAY

Case No. 17-44157

Chapter: 7

Debtor Pro Se

x

SEAN M. MURRAY

Plaintiff

Adv. Pro. No. 18-01141

-against-

SPECIALIZED LOAN SERVICING, LLC
NATIONSTAR MORTGAGE LLC D/B/A MR COOPER,
as SERVICING AGENTS FOR FEDERAL
HOME LOAN MORTGAGE
CORPORATION,
JOHN AND JANE DOE CORPORATIONS
AND ENTITIES

Defendants

x

**PLAINTIFF’S AFFIDAVIT
IN SUPPLEMENTAL
OPPOSITION TO MOTION FOR
SUMMARY JUDGEMENT**

**PLAINTIFF’S AFFIDAVIT IN SUPPLEMENTAL OPPOSITION TO MOTION FOR
SUMMARY JUDGEMENT REQUESTING JUDICIAL NOTICE OF
CORRESPONDENCE RECEIVED AFTER THE OCTOBER 20, 2020 HEARING**

STATE OF NEW YORK)
COUNTY OF QUEENS) ss.:

SEAN MICHAEL MURRAY, Debtor and Plaintiff ProSe (“Plaintiff”), being first duly sworn, hereby deposes and says:

1. I am familiar with the facts and circumstances as stated herein.
2. I submit this affidavit in further supplemental opposition of Defendant Specialized Loan Servicing’s (“SLS”) Motion for Summary Judgement (dkt 28), requesting the Court to take Judicial Notice of correspondence (attached and incorporated by reference as Exhibit A) from

Defendant Nationstar Mortgage LLC D/B/A Mr Cooper (“Mr. Cooper”), received after the October 20, 2020 Hearing (RE: related document(s) dkt 2, Summons and Notice of Pre-Trial Conference (Auto), dkt 1, Complaint Filed by Plaintiff Sean M. Murray RE: related document(s) dkt 28, Motion for Summary Judgment Filed by Defendant Specialized Loan Servicing, LLC), in response to Plaintiff’s Notice of Grievance (attached and incorporated by reference as Exhibit B), which Plaintiff contends is relevant to disputed facts, previous argument before the court and Plaintiff’s Opposition to Defendant’s instant Motion for Summary Judgement.

3. Going back in the dockets of the instant bankruptcy and adversary proceedings, Counsel for Defendants Nationstar and SLS have provided contradictory argument and testimony regarding the nature, standing, and capacity of both Defendants and their relationships to the alleged subject Mortgage on Plaintiff’s exempted personal property and discharged loan.

4. The Letters from Mr. Cooper dated October 15, 2020 (Exhibit A), state in the fourth paragraph, “Please note that Mr. Cooper is the servicer of the (discharged) loan; and therefore, will be responsible for responding to any concerns regarding the servicing of the (discharged) loan. Servicing matters include, but are not limited to the following:

- Payment assistance and modifications
- Payment posting
- Validation of the debt
- Foreclosure proceedings
- Payment adjustments

Please direct any communication related to these matters to Mr. Cooper.”

5. The Court will recall parties discussing counsel for SLS signing their Motion for Summary Judgement as Attorneys for Nationstar, and that counsel explained it as a “typo”.

6. Plaintiff’s Consolidated Motions to Strike and for Sanctions, Contempt and other relief,

incorporated by reference into the instant Adversary Proceeding in Plaintiff's Verified Complaint (dkt 1), all relate to the above mentioned contradictions and fraudulent misrepresentations made by Defendants as evidenced and detailed below.

7. Dkt 24 of the related Bankruptcy Case No. 1-17-44157 granted Plaintiff's Bankruptcy Petition a Discharge under 11 U.S.C. § 727 on December 8, 2017.

8. Defendant Mr. Cooper's Motion for Relief from Stay at dkt 26 of the related Bankruptcy Proceeding Case No. 1-17-44157 dated December 13, 2017, contains a supporting Declaration executed under penalty of perjury by Chastity Wilson, Assistant Secretary of Nationstar Mortgage LLC on December 7, 2017, alleging personal knowledge of stated facts and attached business records evidencing Mortgage Servicing Fraud by way of incorrect accounting having misapplied payment as detailed in Plaintiff's Supplemental Opposition at dkt 41. The Motion for Relief states Mr. Cooper is servicer and "Secured Creditor" as of December 13, 2017.

9. Mr. Cooper is alleged to have transferred servicing of the loan to SLS December 18, 2017.

10. Dkt 43 of the related Bankruptcy Case No. 1-17-44157, page 17 exhibits a letter from Mr. Cooper dated December 6, 2017, where Mr. Cooper assigns a new Dedicated Loan Specialist and Single Point of Contact (SPOC), Priscilla Lyons. Page 23 exhibits an undated Notice postmarked February 14, 2018, SLS's PUBLIC AUCTION NOTICE OF SALE OF COOPERATIVE APARTMENT SECURITY, listing NATIONSTAR MORTGAGE LLC as secured party and holder of the security consisting of 439 shares of common stock in 35-21 79th St. Tenants Corp., and all rights title and interest in and to a Proprietary Lease between said corporation and debtor for Apartment 4E in a building known as and by the street address, 35-21 79TH STREET, UNIT 4E, JACKSON HEIGHTS, NY 11372 together with fixtures and articles of personal property

now or hereafter affixed to or used in connection with Apartment 4E on March 21, 2018 at 10:00AM.

11. Dkt 47 of the related Bankruptcy Case No. 1-17-44157, is a March 29, 2018 Loss Mitigation Status Report alleging that SLS is the “Secured Creditor”.

12. Dkt 48 of the related Bankruptcy Case No. 1-17-44157, April 2, 2018, Affirmation Seeking Adjournment of Entry of Order to Show Cause, executed by Attorney Dennis Jose, Esq. for Gross Polowy, LLC as counsel to SLS alleges SLS as servicer on the subject mortgage loan(s).

13. Dkt 50 of the related Bankruptcy Case No. 1-17-44157, April 3, 2018 Objection to Order to Show Cause to, Among other things, Impose Sanctions against Nationstar Mortgage LLC for Purported Violation of the Automatic Stay, executed by Attorney Michael A. Samuels, Esq. for Robertson, Anschutz & Schneid, P.L. as Attorneys for Nationstar Mortgage LLC d/b/a/ Mr. Cooper (Attorney Samuels being subject to Plaintiff’s incorporated Motions for Contempt and Sanctions), states in paragraph 7 that, “effective as of December 18, 2017, the Debtor’s Loan was service transferred to the successor servicer, Specialized Loan Servicing, LLC (“SLS”).”

14. Dkt 52 of the related Bankruptcy Case No. 1-17-44157, Debtor and Plaintiff’s April 4, 2018 Reply to SLS Affirmation Seeking Adjournment details Defendants Mr. Cooper’s and SLS’s alleged Identity Theft, Fraudulent Use of Shell Company and violations of Dual Tracking prohibitions.

15. Dkt 56 of the related Bankruptcy Case No. 1-17-44157, April 13, 2018 Mr. Cooper through Attorney Samuels requested withdrawal of Mr. Cooper’s December 13, 2017 Motion for Relief from Stay, despite having not timely provided a response to Debtor and Plaintiff’s January 22, 2018 Opposition to Mr. Cooper’s Motion for Relief at Dkt 31 of the related Bankruptcy Case.

16. Mortgage servicing fraud can take many forms, including when a mortgage servicer sells a loan it services deliberately failing to post or account for payments and the Fraudulent Use of a Shell Company to avoid apparent legal liability.

17. Dkt 62 of the related Bankruptcy Case No. 1-17-44157, April 18, 2018 has SLS alleging to be the “Secured Creditor”.

18. Dkt 63 of the related Bankruptcy Case No. 1-17-44157, April 25, 2018, SLS represents itself as “current servicer” and Debtor and Plaintiff’s responses as “requests for information that seem focused on litigation outside the scope of this Court’s loss mitigation program and perhaps better venued in another forum.”

19. Dkt 64 of the related Bankruptcy Case No. 1-17-44157, May 12, 2018, Can Guner, Esquire of RAS Boriskin, LLC as Authorized Agent for “Secured Creditor” NATIONSTAR MORTGAGE LLC D/B/A MR. COOPER filed their REQUEST FOR SERVICE OF NOTICES representing Mr. Cooper as “Secured Creditor” despite the claimed December 18, 2017 service transfer to SLS and counsel for SLS filing Notice of Appearance and pleadings as “servicer” and or “secured creditor”.

20. Dkt 81 of the related Bankruptcy Case No. 1-17-44157, July 19, 2018, Cleo Sharif-Green, Esq. of Robertson, Anschutz & Schneid, P.L. as Attorneys for Nationstar filed an Objection to Plaintiff’s Order to Show Cause stating, in part: that “On the Petition Date, Nationstar was the servicer to the holder of a certain Promissory Note and Security Agreement; March 6, 2018 Gross Polowy, LLC filed a Notice of Appearance on behalf of SLS; Gross Polowy, LLC has been representing SLS in Loss Mitigation; and based upon information and belief, SLS is not

affiliated with Nationstar, citing the December 18, 2017 service transfer to “successor servicer, SLS and thus Nationstar (Mr. Cooper) no longer services the Debtor’s loan.”

21. Dkt 93 of the related Bankruptcy Case No. 1-17-44157, September 25, 2018, Cleo Sharif-Green, Esq. of Robertson, Anschutz & Schneid, P.L. as Attorneys for Nationstar filed Opposition to Debtor’s Motion to Strike Seeking Sanctions again referencing the December 18, 2017 service transfer to SLS “as the new servicer” that “Debtor’s fourth and fifth (Consolidated and Incorporated) Contempt Motions appear to focus on the typos within Nationstar’s Objection and wrong service for Debtor” and that “Nationstar and SLS are separate entities”.

22. Dkt 95 of the related Bankruptcy Case No. 1-17-44157, October 19, 2018, Debtor and Plaintiff’s Motion for Contempt and Sanctions detailing Specialized Loan Servicing, LLC’s (“SLS”) Notice of Auction from February 13, 2018 representing NATIONSTAR MORTGAGE LLC as holder of the security and the repeated invocation of “typos” to explain the apparent contradictions and fraudulent misrepresentations outlined in this affidavit.

23. Dkt 108 of the related Bankruptcy Case No. 1-17-44157, dated January 22, 2018 (another “typo” as the filing date is January 22, 2019) Robert W. Griswold, Bankruptcy Attorney for Shapiro, DiCaro & Barak, LLC as Attorneys for SLS filed a Notice of Appearance as counsel for SLS, “a creditor and party in interest, pertaining to property located at 3521 79th Street 4E, Jackson Heights, NY 11372”, a misrepresentation of the nature of the subject personal property.

24. Dkt 37 of the instant Adversary Proceeding, in an undated Affidavit of Possession filed May 26, 2020, Attorney Robert W. Griswold, Esq. of Shapiro, DiCaro & Barak, LLC, declared under penalty of perjury: that SLS is a “secured creditor”; that SLS contends to have in person, in hand possession of the original Note, endorsed in blank, along with other collateral documents; that

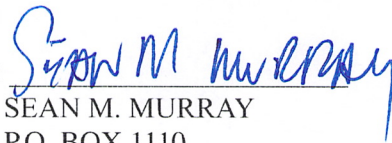
Counsel has access to business records in possession of the firm; that Counsel signs the Affidavit of Possession based upon review of said records relating to the "Loan" and from personal knowledge of how the firm's business records are "kept and maintained."

25. Dkt 43 of the instant Adversary Proceeding, July 23, 2020, Kevin R. Toole, Esq. of RAS Boriskin, LLC filed Notice of Telephonic Appearance on behalf of "Nationstar Mortgage, a secured creditor of the above-named Debtor."

26. Plaintiff respectfully requests that the Court consider this affidavit in supplemental opposition exhibiting and evidencing the disputed underlying facts and Mr. Cooper's most recent correspondence containing claims continuing the conflation of and/or misrepresentation of the Defendants as "servicer(s)" and/or "secured creditor(s)", denying in all respects Defendant's Motion for Summary Judgement, and compelling responses to Plaintiff's Discovery Demands.

I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

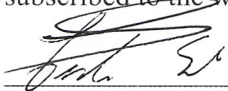
Dated: Thursday, November 19, 2020

By: 
SEAN M. MURRAY
P.O. BOX 1110
ALBANY, NEW YORK
12201-1110 U.S.A.
seanmurray@prodigy.net

JURAT

State of New York)
) ss
County of Queens)

SUBSCRIBED AND SWORN TO BEFOE ME this Thursday, November 19, 2020, Sean Michael Murray, personally known to me or upon identification to be the man whose name subscribed to the within instrument.



Notary Public in and for said State
My commission expires 12/09/2023

CARLOS SOLANO
Notary Public, State of New York
No. 01SO6401378
Qualified in Queens County
Commission Expires December 09, 2023

EXHIBIT A

**mr.
cooper** P.O. Box 619098
Dallas, TX 75261-9741
CHANGING THE FACE OF HOME LOANS

**OUR INFO
ONLINE**
www.mrcooper.com



497227.3-NNNN-39496081.3

Sean Murray
Post Office Box 1110
Albany, NY 12201

October 15, 2020

ACCOUNT INFO
CASE NUMBER: LB-10-20-01223
MORTGAGOR(S):
Sean Murray

Dear Sean Murray :

We received your correspondence on October 13, 2020, regarding the above-referenced loan. We thank you for bringing this matter to our attention. We take all matters seriously and are in the process of reviewing your concerns.

A response will be provided no later than November 23, 2020.

Our records indicate that FEDERAL HOME LOAN MORTGAGE CORPORATION, is the current owner of the loan. As requested, we have provided the contact information below:

FEDERAL HOME LOAN MORTGAGE CORPORATION (Freddie Mac)
8200 Jones Branch Drive
McLean, VA 22102

Please note that Mr. Cooper is the servicer of the loan; and therefore, will be responsible for responding to any concerns regarding the servicing of the loan. Servicing matters include, but are not limited to the following:

- Payment assistance and modifications
- Payment posting
- Validation of the debt
- Foreclosure proceedings
- Payment adjustments

Please direct any communication related to these matters to Mr. Cooper.

**mr.
cooper**
P.O. Box 619098
Dallas, TX 75261-9741
CHANGING THE FACE OF HOME LOANS

OUR INFO
ONLINE
www.mrcooper.com



497227.3-NNNN-39496828.47

Sean Murray
Post Office Box 1110
Albany, NY 12201

October 16, 2020

ACCOUNT INFO
CASE NUMBER: LB-10-20-01223
MORTGAGOR(S):
Sean Murray

Dear Sean Murray :

We received your correspondence on October 13, 2020, regarding the above-referenced loan. We thank you for bringing this matter to our attention. We take all matters seriously and are in the process of reviewing your concerns.

A response will be provided no later than November 23, 2020.

Our records indicate that Federal Home Loan Mortgage Corporation, is the current owner of the loan. As requested, we have provided the contact information below:

Federal Home Loan Mortgage Corporation (Freddie Mac)
8200 Jones Branch Drive
McLean, VA 22102

Please note that Mr. Cooper is the servicer of the loan; and therefore, will be responsible for responding to any concerns regarding the servicing of the loan. Servicing matters include, but are not limited to the following:

- Payment assistance and modifications
- Payment posting
- Validation of the debt
- Foreclosure proceedings
- Payment adjustments

Please direct any communication related to these matters to Mr. Cooper.



Please note that during the investigation and resolution of your inquiry, written correspondence, such as billing statements and mandatory State pre-foreclosure notices, may continue.

If you have any questions, please contact us via one of the following methods.

Mr. Cooper
Customer Relations
PO Box 619098
Dallas, TX 75261-9741
phone: 877-783-7480
facsimile: 972-315-8637
email: customerrelationsofficer@mrcooper.com

Our hours of operation are Monday through Friday from 8 a.m. to 5 p.m. (CT). Visit us on the web at www.mrcooper.com for more information.

Sincerely,

Mr. Cooper
Customer Relations



CHANGING THE FACE OF HOME LOANS

If property state = NY, populate below disclosure:

New York Residents: Nationstar Mortgage LLC d/b/a Mr. Cooper is licensed by the New York City Department of Consumer Affairs License Number: 1392003, 1424140, 1468024, 2021843, 2045153, 2066076, 2066379, 2082028. **If you believe a Loss Mitigation request has been wrongly denied, you may file a complaint with the New York State Department of Financial Services at 1-800-342-3736 or www.dfs.ny.gov.** If you want to know the name of your originating lender or the amount that you owe, please contact our customer service department. Mr. Cooper utilizes third-party providers and remains responsible for all actions taken by these providers.

EXHIBIT B

SEAN MICHAEL MURRAY
P.O. BOX 1110
ALBANY, NEW YORK 12201-1110 U.S.A.

Thursday, October 1, 2020

RE: GRIEVANCE NOTICE UNDER THE MORTGAGE & 12 C.F.R. §1024.35
MORTGAGE LOAN NUMBER: [REDACTED]
NOTICE OF INTENT TO LITIGATE BREACH AND DAMAGES

Barbara Dunleavy
Shapiro, DiCaro & Barak, LLC
One Huntington Quadrangle, Suite 3N05
Melville, NY 11747
631-386-3027
631-844-9525 (fax)
BDunleavy@logs.com

HSBC MORTGAGE CORPORATION (USA)
2929 Walden Avenue Loan No.: [REDACTED]
Depew, NY 14043-2602

PHH MORTGAGE SERVICES
P.O. Box 66002 Loan No.: [REDACTED]
Lawrenceville, NJ 08648

Raquel Felix
RAS Boriskin, LLC
900 Merchants Concourse, Suite 310
Westbury, NY 11590
516-729-4881
rfelix@rasboriskin.com

NATIONSTAR MORTGAGE
Attn: Customer Relations Loan No.: [REDACTED]
P.O. Box 619098
Dallas, TX 75261-9741

SPECIALIZED LOAN SERVICING, LLC
P.O. Box 630147 Loan No.: [REDACTED]
Littleton, CO 80163-0147

Robert W. Griswold
Shapiro, DiCaro & Barak, LLC
One Huntington Quadrangle, Suite 3N05
Melville, NY 11747
631-844-9611
631-844-9525 (fax)
rgriswold@logs.com

PATRICK J. BURKE PRESIDENT AND CEO
HSBC BANK U.S.A., NA
1800 Tysons Boulevard, Suite 50
McLean, VA 22101

Kevin R Toole
Kevin R. Toole, Esq.
c/o RAS Boriskin
900 Merchants Concourse
Westbury, NY 11590
(516) 732-0289
561-290-1557 (fax)
ktoole@rascrane.com

ROBERT B. CROWL PRESIDENT AND CEO
PHH CORPORATION, PHH MORTGAGE
1 Mortgage Way/ 3000 Leadenhall Road
Mount Laurel, NJ 08054

JAY BRAY PRESIDENT AND CEO
NATIONSTAR
8950 Cypress Waters Blvd.
Dallas, TX 75019

DONALD H. LAYTON CEO
FREDDIE MAC
8200 Jones Branch Drive
McLean, VA 22102

TOBY WELLS CEO
SPECIALIZED LOAN SERVICING, LLC
8742 Lucent Blvd Ste 300
Highlands Ranch, CO 80129

Federal Trade Commission Complaint Number:

Identity Theft Report Number 86905510

CFPB Complaint Numbers:

170806-2317838 NATIONSTAR
170721-2268790 NATIONSTAR
160717-000013 HSBC

180307-2924930 SLS
170721-2272149 NATIONSTAR
170721-2268771 GROSS POLOWY LLC

Office of the Attorney General
Bureau of Consumer Frauds and Protection
120 Broadway
New York, NY 10271

File No: 2015-1248981

Bonnie Filip Consumer Representative 1
Mortgage Assistance Unit Real Estate Finance Division
New York State Department of Financial Services
One State Street Plaza
New York, NY 10004

Case Number: 2017-1215890

Office of US Senator Kirsten Gillibrand
780 Third Ave, Suite 2301
New York, NY 10017


Office of Senator Charles Schumer
780 Third Avenue, Suite 2601
New York, NY 10017

I am writing to report my grievances regarding the mortgage transaction involving my personal property, 439 shares of common stock in 35-21 79 St. Tenants Corp. and all rights, interest and title in a proprietary lease for a co-op building unit known as 35-21 79th Street, Unit 4E, Jackson Heights, NY 11372.

1. This letter is notice that the Original lender, HSBC MORTGAGE CORPORATION (USA), and subsequent Mortgage Servicers have breached the above referenced mortgage loan contract executed March 20, 2008.
2. The breach of contract grounds include but are not limited to: negligence and misrepresentation on the part of attorneys preparing the transaction concerning the nature of the property to be acquired; engaging in predatory lending by way of an unconscionable contract; application of unreasonable attorneys' fees; failure and refusal to respond as statutorily required to NOE, RFI and QWR's; improper payment application; violation of the implied duty of good faith and fair dealing; failure and refusal to send a proper breach (default) letter; slander of title; failure and refusal to provide 90-day notice required by RPAPL § 1304 or comply with all applicable law as a condition precedent to attempting wrongful non-judicial foreclosures.

I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on Thursday, October 1, 2020.


SEAN MICHAEL MURRAY

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

In re:

SEAN M. MURRAY

Case No. 17-44157

Chapter: 7

Debtor Pro Se

SEAN M. MURRAY

Plaintiff

Adv. Pro. No. 18-01141

-against-

SPECIALIZED LOAN SERVICING, LLC
NATIONSTAR MORTGAGE LLC D/B/A MR COOPER,
as SERVICING AGENTS FOR FEDERAL HOME LOAN MORTGAGE CORPORATION,
JOHN AND JANE DOE CORPORATIONS AND ENTITIES
Defendants

CERTIFICATION OF SERVICE

The undersigned certifies that on Thursday, November 19, 2020, a copy of the annexed papers: PLAINTIFF'S AFFIDAVIT IN SUPPLEMENTAL OPPOSITION TO SUMMARY JUDGEMENT REQUESTING JUDICIAL NOTICE OF CORRESPONDENCE RECEIVED AFTER THE OCTOBER 20, 2020 HEARING, were served by depositing same, enclosed in a properly addressed postage-paid envelope, in an official depository under the exclusive care of the United States Postal Service within the State of New York, upon:

Cleo Sharaf-Green, Esq.
ROBERTSON, ANSCHUTZ & SCHNEID, P.L.
Attorneys for Nationstar Mortgage LLC
900 Merchants Concourse
Westbury, NY 11590
csharaf@rasboriskin.com

Robert W. Griswold
Shapiro, DiCaro & Barak, LLC
Attorneys for Specialized Loan Servicing
One Huntington Quadrangle, Suite 3N05
Melville, NY 11747
rgriswold@logs.com

Richard J. McCord, Chapter 7 Trustee
Certilman Balin Adler & Hyman
90 Merrick Avenue
East Meadow, NY 11554

Dated: Thursday, November 19, 2020
By: SEAN M. MURRAY
SEAN M. MURRAY
P.O. BOX 1110
ALBANY, NEW YORK 12201-1110